



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Elmore et al

Atty. Ref.: 1498-133; Confirmation No. 7733

Appl. No. 08/981,087

Group: 1647

Filed: May 27, 1998

Examiner: Turner

For: TYPE F BOTULINUM TOXIN AND USE THEREOF

* * * * *

October 30, 2003

Office of Patent Publications

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

REQUEST

The Examiner is requested to return an initialed copy of the attached PTO-1449 Form as an acknowledgement of consideration of references cited in the International Search Report dated October 16, 1996 issued with regard to PCT/GB96/01409 which is a parent of the present application. The applicants note that the reference of Hatheway (Applied and Environmental Microbiology, 1976, 31(2) 234-42) listed in the International Search Report is not listed on the attached PTO-1449 Form as the same was listed in the PTO-892 Form forwarded to the applicants as a part of Paper No. 29 (the Office Action dated October 28, 2002).

The applicants note that Form PCT/DO/EO/903 indicates that a copy of the International Search Report and copies of the references cited therein were received by

the USPTO. A copy of the Form PCT/DO/EO/903 dated August 28, 1998, is attached for the convenience of the Examiner. A copy of the International Search Report dated October 16, 1996, is attached.

Also attached is a copy of MPEP § 609, pages 600-119 and 600-120 (August 2001), which indicates that "the Examiner will consider the documents cited in the International Search Report in a PCT National Stage Application when the Form PCT/DO/EO/903 indicates that both the International Search Report and the copies of the documents are present in the National Stage file. In such a case, the Examiner should consider the documents from the International Search Report and indicate by a statement in the first Office Action that the information has been considered. There is no requirement that the Examiner list the documents on a PTO-892 Form."


The Examiner's first Action which substantively consider the claims (i.e., the Office Action dated October 7, 1999), does not appear to include such a statement. The applicants are desirous of having these references listed on the face of the patent issuing from the present application and request return of an initialed copy of the attached PTO-1449 Form, which lists these references, to assure that the Examiner's consideration of these references is made of record and the same were listed on the face of the patent.

Nothing further is believed to be required for consideration of the present request and a return of an initialed copy of the attached PTO-1449 Form however the Office is requested to contact the undersigned if otherwise.

Elmore et al
Appl. No. 08/981,087
October 30, 2003

Respectfully submitted,

NIXON & VANDERHYE P.C.

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S r i a l N .

08/981,087

Applicant

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1647

May



OCT 3 0 2003

FILING DATE

[illegible]

TRANSLATION

[illegible]

OTHER DOCUMENTS (including Author, Title, Date, Pertinent pages, etc.)

[illegible]

Date Considered

Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to application.